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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,081	11/13/2003	Nathan Ravi	111828-00110	7277
27557 7590 09/03/2008 BLANK ROME LLP 600 NEW HAMPSHIRE AVENUE, N.W. WASHINGTON, DC 20037				
EXAMINER				
ROBERTS, LEZAH				
ART UNIT		PAPER NUMBER		
1612				
MAIL DATE		DELIVERY MODE		
09/03/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/706,081

Applicant(s)

RAVI, NATHAN

Examiner

LEZAH W. ROBERTS

Art Unit

1612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27, 29-39 and 45-121 is/are pending in the application.
- 4a) Of the above claim(s) 1-22, 30, 32, 33, 46-116 and 119-121 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-27, 29, 31, 34-39, 45, 117 and 118 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This Office Action is in response to the Amendment filed June 12, 2008. All previous rejections have been withdrawn unless stated below.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Status: Claims 119 and 120 were previously withdrawn because they are drawn to a non-elected species but were inadvertently left out of the listing of claims that are withdrawn in the previous office action.

Claims

Claim Rejections - 35 USC § 103 - Obviousness

1) Claims 23-29, 31, 34-39, 44, 45 and 117-118 were rejected under 35 U.S.C. 103(a) as being unpatentable over Marchant (US 2002/0068087) in view of Viegas et al. (US 2003/0143274). The rejection is maintained. Claims 28 and 44 have been cancelled.

Applicant's Arguments

Applicant argues the combination of Marchant and Viegas et al. do not disclose all the limitations of the instant claims. The application by Marchant does not contemplate *in situ* gelation. Marchant also discloses a degradable hydrogel, which is not desirable to use as a lens replacement. This teaches away from the present invention. Furthermore, Viegas does not disclose lens replacement. This argument is not persuasive.

Examiner's Response

The claims are drawn to forming a hydrogel in the capsular sac and do not disclose that the hydrogel is used to make a permanent lens as argued by Applicant. The secondary reference gives the motivation as to why one of skill in the art would want to form the hydrogel *in situ* as opposed to outside the eye. Therefore the two references together encompass all the limitation of the instant claims and do not teach away from the instant claims.

2) Claims 24, 26-29, 31 and 34-39 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sawhney (US 6,818,018) in view of Marchant (US 2002/0068087). The rejection is maintained. Claim 28 has been cancelled.

Applicant's Arguments

Applicant argues Sawhney and Marchant do not disclose every element of the instant claims. Sawhney discloses hydrogels that are not permanent. The instant claims

require injecting the hydrogel into the capsular bag and *in situ* gelating the solution to form a lens replacement inside the capsular bag. Marchant does not remedy the deficiencies of Sawhney. This argument is not persuasive.

Examiner's Response

The claims do not recite the limitation that the hydrogels are permanent and make a lens inside the capsular bag. The claims recite a method of forming a hydrogel in an eye, which is encompassed by the combined references. In regards to the capsular bag, the secondary reference discloses introducing the gel forming solution into the eye (paragraph 0015) and using the solutions to deliver actives (paragraph 0015). Sawhney also discloses using the disclosed compositions for delivering drugs to the body. Therefore it would have been obvious to insert the composition of the combination of Sawhney and Marchant into the eye or capsular bag in order to deliver therapeutic agents to the eye when desired.

Claims 23, 24, 26-29, 31, 34-39, 45, 117 and 118 are rejected.

Claims 1-22, 30, 32, 33, 46-116 and 119-121 are withdrawn.

No claims allowed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **LEZAH W. ROBERTS** whose telephone number is (571)272-1071. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frederick F. Krass can be reached on 571-272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. W. R./
Examiner, Art Unit 1612

/Frederick Krass/
Supervisory Patent Examiner, Art Unit 1612